



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL


648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

TDD  
(213) 633-0901  
TELEPHONE  
(213) 974-1904  
TELECOPIER  
(213) 687-7300

LLOYD W. PELLMAN  
County Counsel

July 31, 2002

TO: SUPERVISOR ZEV YAROSLAVSKY, Chairman  
SUPERVISOR GLORIA MOLINA  
SUPERVISOR YVONNE BRATHWAITE BURKE  
SUPERVISOR DON KNABE  
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN   
County Counsel

RE: **Malibu Canyon Continental Communities, L.P. v**  
**County of Los Angeles**  
**Superior Court Case No. BC 211695**

As we have previously advised your Board, Malibu Canyon Continental Communities, L.P. ("MCCC"), the owner of a 207-acre parcel of property near Calabasas in an unincorporated area of the County, sued the County of Los Angeles in connection with the County's denial of a major commercial project that MCCC proposed to develop on its property.

The trial court had previously entered judgment in favor of the County which MCCC appealed. We are now pleased to advise you that the California Court of Appeal (Second Appellate District, Division Seven) has unanimously upheld the trial court's judgment in favor of the County.

MCCC claimed that under provisions of the California Environmental Quality Act ("CEQA"), it was entitled: (1) to have a final Environmental Impact Report ("EIR") deemed certified; and (2) to have the tract map for its commercial project deemed approved, as a result of alleged processing delays by the County. MCCC also sought significant monetary damages, claiming that the County's denial of the project constituted a regulatory taking of the property under federal law.

The superior court granted the County's motion for summary judgment on MCCC's federal takings claim and denied MCCC's motion to amend its complaint to add a takings claim under California law. After a nonjury trial, the superior court entered judgment in favor of the County on all claims.

In its written opinion, the Court of Appeal fully affirmed the trial court's judgment. It held that the County had no duty under CEQA to complete an EIR for the project which the County had denied; that an incomplete EIR cannot be deemed certified under CEQA; and that a tract map cannot be deemed approved due to processing delays if the map has not been approved at any stage in the administrative proceedings.

With respect to the trial court's refusal to allow MCCC to amend the complaint to add a state law regulatory takings claim, the Court of Appeal upheld that ruling as well, finding that MCCC's takings claim was not valid (i.e., that it was not "ripe") in that MCCC had never submitted a development plan that was consistent with the existing general plan of the County.

The County was represented in the lawsuit by Deborah J. Fox of Fox & Sohagi and by members of my staff.

Should the MCCC seek to further appeal the decision to the California Supreme Court or if there are any additional developments, we will advise your Board.

If you have any questions on this matter please contact either me, John Krattli at 974-1838, or Bob Cartwright at 974-1879.

LWP:RCC:mh

c: David E. Janssen  
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer  
Board of Supervisors

James E. Hartl, Director  
Department of Regional Planning Commission